

DEVELOPMENT PLANNING

DEVELOPMENT MANAGEMENT

PROGRESS REPORT

3 May 2013

**PETITION RECEIVED FROM CHIAWELO RESIDENTS :
THE UNITY FELLOWSHIP CHURCH :
PORTION 41 OF ERF 186 KLIPRIVERSOOG EXTENSION 1
(PREVIOUSLY KNOWN AS PORTIONS 34, 35, 36 AND 37 OF ERF 186)**

This report serves to inform the National Petitions Committee of the progress regarding the matter concerning the Chiawelo Residents / Unity Fellowship Church since the report back provided to the Committee in October 2012.

As mentioned in the previous report to the Committee a report for the **termination of the consent** granted for a place of public worship, was forwarded to the Council's Planning Committee for a hearing. *(Copy of Report to be provided to the Committee)* A hearing was scheduled for 11 December 2012. On the date of the hearing the Planning Committee was refused access to the property by the owner during the site inspection which preceded the hearing. The owner informed that he was not aware of the hearing and was out of town at the time.

The hearing was re-scheduled to 5 February 2013. The Planning Committee conducted a site inspection on the day during which physical features were pointed out by the owner's representative, the objectors and officials of the relevant departments of the Council. Thereafter the hearing was conducted at the Metro Centre, Braamfontein. This department together with representatives from the Health Department put their case before the Planning Committee. The objectors were then afforded the opportunity to put their case before the Planning Committee and similarly the owner was afforded the opportunity to address the Planning Committee.

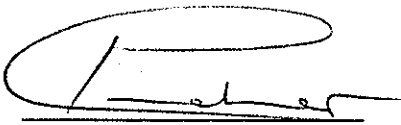
After considering all the presentations and evidence put before them by the various parties in this matter, the Planning Committee resolved that the consent for a place of public worship on Portion 41 of Erf 186 Klipriversoog Extension 1 be terminated. *(Refer to ANNEXURE A : Copy of Minutes of Planning Committee Hearing : 5 February 2013)*

The owner has been informed of the Planning Committee's decision.

It became evident however that the church activities continue unabated and that no regard to the Planning Committee's resolution on this matter is given by the owner. The matter has subsequently been handed over to the Group Legal and Contracts Department of the Office of the Executive Mayor, whom in turn have already handed the matter over to the Council's attorneys to launch legal proceedings to the appropriate court of law.

A concise report on the Order of Events regarding this matter is attached as **ANNEXURE B** for the benefit of the Committee.

Yours faithfully



P Conchar
Assistant Director :
Land Use Management



SPECIAL HEARING

PRESENT:

A Nortjé, Chairperson
N Maduse, Member
D Chamboko, Member
N Letter, Member
N Shipalana, Member
E Theron, Member
K Nkhambula, (Committee Officer, Development Planning)
P Conchar, Presenting Town Planner, (Development Planning)

Observer

1. S Ngime

1 WELCOME

The Chairperson welcomed all the members present at the meeting.

2. LEAVE OF ABSENCE

None

3. TOUR OF INSPECTION

An inspection in loco was conducted of the site referred to in item 1 of the agenda.

**4. REPORTS OF THE DIRECTORATES
MAIN AGENDA (Copies filed)**

PLANNING COMMITTEE

2013-Feb 05
(Minutes)

ITEM 1 TERMINATION OF CONSENT FOR A PLACE OF PUBLIC WORSHIP:
PORTION 41 (PREVIOUSLY KNOWN AS PORTIONS 34, 35, 36 AND 37)
OF ERF 186 KLIPRIVERSOOG EXTENSION 1
(REG NO 01/1456/2008) SH

The Council's town planner, Mr P Conchar, addressed the committee on behalf of the Planning department motivating why the Department is of the view that the consent be terminated.

The objectors (the members of the community supporting the Department in withdrawing the consent) Ms G Peele, Ms L and N Letsoela, Mr M Boitumelo and Mr M Zembe, addressed the committee.

The representative of the owner of the property (the Church), Mr P Mundell, addressed the committee and submitted an additional motivating memorandum motivating why the consent should not be withdrawn (Copy attached as Annexure "A").

Mr K Govender and Mr L Makasela from the environmental health services were also afforded an opportunity to address the committee.

The Department, through Mr. Conchar, was given an opportunity to reply.

Subsequent to "in-committee" discussion, it was:

RESOLVED

That notwithstanding the provisions of any other law, the City of Johannesburg, in terms of Condition 11 of the consent use approval dated 8 November 2008 in respect of Portion 41 of Erf 186 Klipriversoog Extension 1 (previously known as Portions 34, 35, 36, 37), terminates the consent use for a Place of Public Worship (Church) with immediate effect.

(PC 185-12)

P Conchar/jve
Tel 407-6968

DEVELOPMENT PLANNING

13.11.2012

/8/186

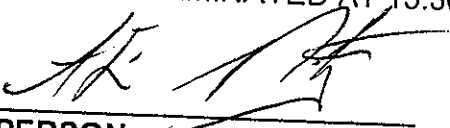
13.11.2012

PLANNING COMMITTEE

2013-Feb 05
(Minutes)

5. CONFIRMATION OF MINUTES

THE MEETING TERMINATED AT 15:30



CHAIRPERSON

2013-02-12

DATE

ANNEXURE B

**THE UNITY FELLOWSHIP CHURCH :
PORTION 41 OF ERF 186 KLIPRIVERSOOG EXTENSION 1
(PREVIOUSLY KNOWN AS PORTIONS 34, 35, 36 AND 37 OF ERF 186)**

ORDER OF EVENTS

| No | DATE | EVENT | REMARKS |
|----|--------------|---------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 1 | 20 Nov 2008 | Council approves the consent for a Place of Public Worship | |
| 2 | 14 June 2010 | Approve SDP | |
| 3 | 14 Feb 2011 | EH serve Notice | <ul style="list-style-type: none"> - To ensure that noise nuisance / disturbance do not emanate from premises - To ensure above requirements are fully complied / adhered to |
| 4 | 6 Sept 2011 | EH Notice | <p>Refer to previous Notice of 14/02/2011</p> <ul style="list-style-type: none"> - To ensure that noise nuisance / disturbance do not emanate from premises - To ensure above requirements are fully complied / adhered to |
| 5 | 11 Sept 2011 | LE Site Inspection | <p>Findings : Contravention of Consent Conditions :</p> <ul style="list-style-type: none"> - Dev not in accordance with SDP (3 X Marque Tents) - Parking in street - Noise evident on observation (not quantified / verified) : Use of amplified instruments & speakers outside building, etc <p>No LE Action taken</p> |
| 6 | 2 Oct 2011 | Tel discussion between EH (Letsoene) and Mr. Makhubu (Church) | Mr. Makhubu informs that acoustic specialist has been engaged and awaiting quotation. |
| 7 | 12 Oct 2011 | National Petitions Committee | Council reports on the subject matter |
| 8 | 5 Nov 2011 | LE Site Inspection | Confirm previous contraventions as observed 11 Sept 2011. |

| | | | |
|-----------|-------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| | | | |
| 9 | 16 Nov 2011 | Meeting held between Mr. Makuba and the Environ Health Manager & Operational Manager at Ennerdale Civic Centre | Mr Makuba informed advised of actions to be taken to resolve the noise problem. Also acknowledges receipt of statutory notices served by the Environ health Dept. |
| 10 | 2, 3 & 4 Dec 2011 | Joint Town Planning Law Enforcement & Environmental Health site inspections conducted | EH : Noise measurements taken : Conclude that noise levels exceed required noise levels. Noise levels extremely high on Sunday (4 Dec) and day-night time and day-time in the outdoors. LE Reconfirm previous contraventions. |
| 11 | 7 Dec 2011 | EH Notice Served (again) | Refer to previous Notices of 14/02/2011 and 6 Sept 2011 <ul style="list-style-type: none"> - To ensure that noise nuisance / disturbance do not emanate from premises - To ensure above requirements are fully complied / adhered to Specifically instructed to reduce noise levels to acceptable level as per SANS 10103:2003 and that the production of any nuisance or disturbing noise be ceased with immediate effect. |
| 12 | 13 Feb 2012 | Receive letter from Church attorneys (JSI) | |
| 13 | 28 Mar 2012 | Receive letter from Church attorneys (JSI) | |
| 14 | 18 April 2012 | EH Services do inspection to determine ambient noise level | No church service at the time |
| 15 | 22 April 2012 | EH Services conduct follow up inspection | Noise readings during church service are excessive, exposing residents in immediate vicinity to extreme noise levels and noise induced health risk. NON Compliance with previous notices served |
| 16 | 10 May 2012 | Council's Legal and Contracts Department of the Office of the Executive Mayor addressed letter to Mr. Makuba's attorneys. This letter also serves as Town Planning Notice | Notice expires 6 June 2012 : No response within said period. |

| | | | |
|----|----------------------|-------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 17 | 15 June 2012 | Letter received from Mr. Makuba requesting meeting with stakeholders | Legal and Contracts Department advise affected departments to compile up to date evidence to determine compliance or not of statutory notices served |
| 18 | 3, 4 & 5 August 2012 | Follow-up inspections carried out by Planning Control and Environmental Health | Non-compliance of any of the statutory notices confirmed |
| 19 | 12 October 2012 | Feedback to Select Committee on Petitions and Members' Legislative Proposals | Council provides feedback on progress made and further planned action |
| 20 | 11 December 2012 | Planning Committee hearing scheduled to consider the termination of the consent for Place of Public Worship | Planning Committee refused access to site by the owner / applicant. Owner informed that he was not aware of the hearing and was out of town at the time. |
| 21 | 5 February 2013 | Planning Committee hearing re-scheduled | The Planning Committee conducts a site inspection and proceeds to hear the matter. Presentations made by the Council's Development Planning Department supported by the Environmental Health Department, the objectors all in support of the termination of the application and Mr. Mundell on behalf of the owner. |
| 22 | 12 February 2013 | Minutes of the Planning Committee confirmed | The Planning Committee resolved that the consent for a Place of Public worship on Portion 41 of Erf 186 Kliproviersoog X I be terminated in terms of the provisions of Condition 11 of the said consent approval. |
| 23 | 19 February 2013 | The owner's representative, Mr Mundell of Kuilman Mundell & Arlow Attorneys is informed of the Planning Committee's decision. | Mr. Mundell appointed by the owner as his legal representative |
| 24 | | Informal observation indicates that the use of the subject property is continued unabated. | |
| 25 | 27 March 2013 | The matter is reported and subsequently referred to the Legal and Contracts Department of the Office of the Executive Mayor | |
| 26 | 10 April 2013 | The matter is referred to the Council's attorneys for further legal action to the appropriate court of law | Awaiting further advice / instruction from the Council's attorneys |